UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1091
21 October 1991

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1091st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 July 1991, at 10 a.m.

Chairman: Mr. POCAR

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GE.91-17056/3824B

The meeting was called to order at 10.30 a.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 6) (continued) (CCPR/C/42/CRP.1/Add.10, 12, 15, 16, 17, 18, 19 and 25)

1. The CHAIRMAN invited the Committee to adopt the recommendations it would be making to the Preparatory Committee for the World Conference on Human Rights (CCPR/C/42/CRP.1/Add.25). The text would appear in an annex to the Committee's annual report. If there were no objections, he would take it that the recommendations were adopted.

2. It was so decided.

Document CCPR/C/42/CRP.1/Add.10 (Sweden) (continued)

Paragraphs 6 to 10

3. Paragraphs 6 to 10 were adopted.

Paragraphs 11 to 17

4. Mr. ANDO (Rapporteur) said that in lines 10 and 11 of paragraph 16 the phrase "all compulsory care orders were subject to examination by the courts" should be amended so as to make clear that compulsory care orders were decided upon by the courts.

5. Paragraphs 11 to 17, including paragraph 16, as orally amended, were adopted.

Paragraphs 18 to 33

6. Mr. ANDO (Rapporteur) said that, for the sake of clarity, the second sentence of paragraph 33 should be amended to read: "When a decision to prohibit removal of a child was taken by the social welfare committee, the committee was also authorized to decide on the parents' access to the child during the period of prohibition".

7. Paragraphs 18 to 32 and paragraph 33, as orally amended, were adopted.

Paragraphs 34 and 35

8. Paragraphs 34 and 35 were adopted.

Paragraphs 36 to 38

9. Miss CHANET said she thought that the fourth sentence of paragraph 36 might give rise to confusion, particularly in view of what was stated in paragraph 16 as orally amended. It should be recalled that the Swedish delegation had not expressed itself very clearly on the question of the

compulsory treatment of alcoholics and drug offenders, and that clarification had been provided subsequently by Mr. Wennergren, when consideration of the State party's report had been completed. It would thus be preferable to delete the fourth sentence of paragraph 36 altogether.

10. Mr. ANDO (Rapporteur) agreed and proposed that the sentence concerned be deleted.

11. It was so decided.

12. Document CCPR/C/42/CRP.1/Add.10, as orally amended, was adopted.

Document CCPR/C/42/CRP.1/Add.12 (Panama)

Paragraphs 1 to 3

13. Paragraphs 1 to 3 were adopted.

Paragraph 4

14. Mr. PRADO VALLEJO requested that the following text be added at the end of paragraph 4: "Members of the Committee wished to have information on the legal situation prevalent in Panama as a result of the invasion, including the measures adopted to guarantee to citizens the rights set forth in the Covenant, especially in view of the presence of foreign troops which had exercised internal control with the consent of the Government. They asked about the legal basis of confiscation, without legal process, of property belonging to alleged collaborators with the former regime and what compensation was to be paid to persons whose homes and workplaces in various working-class areas of Panama City and Colón had been destroyed by bombing".

15. Paragraph 4, as orally amended on the basis of Mr. Prado Vallejo's proposal, was adopted.

Paragraphs 5 to 15

16. Paragraphs 5 to 15 were adopted.

Paragraph 16

17. Mr. PRADO VALLEJO requested that the following sentence be added at the end of paragraph 16: "Members of the Committee asked what actions had been taken to investigate cases of disappearances before, during and after the invasion, and what cooperation the Government had given in order to open the common graves found in various places and to compensate the victims' families".

18. Paragraph 16, as orally amended on the basis of Mr. Prado Vallejo's proposal was adopted.

Paragraphs 17 to 21

19. Paragraphs 17 to 21 were adopted.

Paragraph 22

20. Mr. PRADO VALLEJO said he would like the following sentence to be added at the end of paragraph 22: "Members of the Committee wished to know about the situation of asylum seekers in various diplomatic missions, and what the Government's grounds were for not granting them safe conduct pursuant to the inter-American conventions on asylum ratified by Panama".

21. Paragraph 22, as orally amended on the basis of Mr. Prado Vallejo's proposal, was adopted.

Paragraphs 23 to 33

22. Paragraphs 23 to 33 were adopted.

Paragraph 34

23. Mr. PRADO VALLEJO said he wished the following sentence to be added at the end of paragraph 34: "Members of the Committee pointed out that the banning of peaceful demonstrations and the imposing of penalties on participants constituted violations of the rights guaranteed under the Covenant, and asked whether the decisions to expel opponents of the Government from the administration and trade unions were to be lifted".

24. Paragraph 34, as orally amended on the basis of Mr Prado Vallejo's proposal, was adopted.

Paragraphs 35 to 37

25. Paragraphs 35 to 37 were adopted.

Paragraphs 38 and 39

26. Mr. LALLAH considered that the text of the general observations made by members of the Committee following consideration of the report of Panama seemed much too short, particularly in view of the oral amendments made on the basis of Mr Prado Vallejo's proposals.

27. Mr. PRADO VALLEJO said he would indeed like the Rapporteur to make sure that the Committee's general observations were amplified, particularly as many of the questions put by Committee members to the delegation of Panama had remained unanswered.

28. Mr. WENNERGREN, referring to the fourth sentence of paragraph 38, side he would like to know what was to be understood by "unionization": would it not be better to speak of the formation of trade unions?

29. Mr. AGUILAR URBINA pointed out that what was meant was not only the right to form trade unions, but also the right to join a trade union.

30. Mr. LALLAH said that, in the fourth sentence of paragraph 38, he would like mention to be made of the concerns expressed by the Committee on the subject of restrictions imposed on aliens in regard to trade union membership.

31. The CHAIRMAN suggested, for his part, that paragraph 39 should be amended by deleting the word "extremely" before "constructive" in the first sentence and by substituting the phrase "to some extent" for the word "largely" in the second sentence.

32. Mr. AGUILAR URBINA agreed with the second of those proposals, but thought it was still too generous to say that the delegation of Panama had made a "constructive" contribution to the dialogue considering the fact that it had left a large number of questions unanswered.

33. Mr. SADI pointed out that it was the Committee's traditional practice to speak of constructive participation in the dialogue, and that States parties should be encouraged to cooperate further with the Committee.

34. The CHAIRMAN said that the text of paragraph 39 took into account the statement made by the Chair at the conclusion of the general observations and that the word "constructive" had indeed been used, as could be seen from the summary record. He proposed that the Committee should leave it to the Rapporteur to reword paragraphs 38 and 39 in accordance with of the amendments formulated, and also in the light of the changes made to the preceding paragraphs on the suggestion of Mr. Prado Vallejo.

35. It was so decided.

36. Document CCPR/C/42/CRP.1/Add.12 was adopted, as amended, and subject to the changes to be made by the Rapporteur.

Document CCPR/C/42/CRP.1/Add.15 (Madagascar)

Paragraphs 1 to 41

37. Paragraphs 1 to 41 were adopted.

Paragraphs 42 to 45 (General comments)

38. Miss CHANET said that she would like paragraph 42 to begin with the word "Members" and not "The members", because what was stated in the rest of that paragraph did not necessarily reflect the views of all members, or at least did not reflect her own view as far as the third sentence was concerned.

39. Mr. ANDO (Rapporteur) said he would delete the word "The" at the beginning of the paragraph.

40. Mr. WENNERGREN, commenting on the third sentence of paragraph 43, which noted the local authorities' apparent lack of control over thefts of cattle and the resulting problems of "personal revenge", said that he would like the sentence to be worded differently, as it concerned the behaviour of people who had been victims of theft and wanted to take the law into their own hands.

41. Mr. LALLAH proposed that the word "retaliation" should be used instead of the phrase "personal revenge".

42. Mr. WENNERGREN agreed to that amendment.

43. Paragraphs 42 to 45, as amended, were adopted.

44. Document CCPR/C/42/CRP.1/Add.15, as amended, was adopted.

Document CCPR/C/42/CRP.1/Add.16 (Jordan)

45. Document CCPR/C/42/CRP.1/Add.16 was adopted.

Document CCPR/C/42/CRP.1/Add.17 (Iraq)

46. Paragraphs 1 to 7 were adopted without change.

Paragraphs 8 to 14 (Right to life)

47. Miss CHANET, referring to paragraph 8, said that she had asked a question concerning the execution of children. While some replies appeared later in the draft report, the question itself was not mentioned, and that omission should be rectified.

48. Mr. PRADO VALLEJO pointed out that he had questioned the delegation of Iraq about the manufacture of the atomic bomb, but in paragraph 8 no mention was made of that very serious concern.

49. Mr. ANDO (Rapporteur) said that the matter of the atomic bomb was referred to in another part of the draft report. He would see to it that the reference was inserted at the appropriate place.

50. Paragraphs 8 to 14 were adopted, subject to the amendments requested orally.

Paragraphs 15 to 21 (Treatment of prisoners and other detainees)

51. Miss CHANET proposed that the word "abus" in the first sentence of the original French version of paragraph 17 should be replaced by the word "tortures".

52. The proposal was adopted.

53. Paragraphs 15 to 21, as amended, were adopted.

54. Following a discussion in which Mr. WENNERGREN, Miss CHANET, Mr. LALLAH and Mr. SADI took part, paragraphs 22 to 27 (Liberty and security of the person) were adopted without change.

55. Paragraphs 28 to 32 (Rights of persons belonging to minorities) were adopted without change.

Paragraphs 33 to 38 (General observations)

56. Miss CHANET said that since she had read the paragraphs concerned in English only, she would like it to be clearly understood that in the French version the phrase "Members of the Committee" would be translated by "Les membres". In the fourth sentence of paragraph 34, she was not sure that the choice of the word "absolve" was appropriate.

57. In the first sentence of paragraph 35, she would like some qualifying word such as "notably" or "in particular" to be added, to indicate that the repressive action of the Government of Iraq were directed especially, but not exclusively, against the Kurds and the Shiites.

58. In the first sentence of paragraph 36, it was perhaps unnecessary to state that the Committee's criticisms had been "perhaps disagreeable for the delegation to hear". In the same sentence, it would be better to say that "all persons under Iraq's jurisdiction" should enjoy the rights and freedoms enshrined in the Covenant (and not merely "all Iraqis").

59. Mr. ANDO (Rapporteur) said he had no objection to deleting the phrase "and perhaps disagreeable for the delegation to hear". The word "absolve", on the other hand, had actually been used by a member of the Committee.

60. The CHAIRMAN, supported by Mr. PRADO VALLEJO, pointed out that following consideration of Iraq's report he had stated not only that a number of issues had not been taken up for lack of time but also that some of the questions raised had remained unanswered. That should be indicated in the first sentence of paragraph 38; it would be sufficient to add a phrase along the following lines: "... and that a number of questions that had been raised had remained unanswered".

61. Mr. WENNERGREN said he had some doubts as to the accuracy of the statement made in the first sentence of paragraph 35 with regard to the existence in Iraq of the death sentence without any possibility of appeal; as he recalled, the Iraqi delegation had explained that with the abolition of the revolutionary courts, there would be a possibility of recourse.

62. Miss CHANET pointed out that the purpose of the report was not to establish the factual truth but simply to give an account of what had been said. Some members of the Committee had indeed laid particular stress on the matter of death sentences without any possibility of appeal.

63. Mr. PRADO VALLEJO said he had been concerned that the specially constituted courts had passed a number of death sentences for the crime of food-hoarding, and that the condemned persons had been without recourse because no appeal against the sentence was allowed. He had thus not only stated that death sentences had been passed without any possibility of appeal, but had also laid stress on the existence of special courts. He hoped that those two points would be reflected in the report.

64. The CHAIRMAN requested the Rapporteur to take note of those points and include them in the report.

65. Paragraphs 33 to 38 were adopted, subject to the changes requested.

66. Document CCPR/C/42/CRP.1/Add.17 as a whole was adopted, subject to the changes requested, and as orally amended.

Document CCPR/C/42/CRP.1/Add.19 (Communications)

67. Paragraph 1 was adopted without change.

Paragraphs 2 to 8 (Section A)

68. Mr. ANDO (Rapporteur) read out the figures to be inserted in the spaces left blank in paragraphs 2 to 8.

69. In addition, the second sentence in paragraph 5 should read: "The French version was issued in July 1991; the Spanish version is to be issued in autumn 1991".

70. Paragraphs 2 to 8, as orally amended, were adopted.

Paragraph 9 (Section B)

71. Mr. ANDO (Rapporteur) stated that the number of cases pending was 158.

72. Miss CHANET asked whether it would be possible to find a somewhat toned-down form of words which would avoid saying - as in the third sentence - that the Committee could no longer examine communications as expeditiously as hitherto, while at the same time retaining the idea that there was a need to reinforce the Secretariat staff.

73. Mr. HERNDL said that, on the contrary, the time had come for the Committee to indicate in the clearest possible terms that it had reached a critical stage so far as the examination of communications was concerned.

74. Mr. LALLAH considered the best form of words was that of the existing text.

75. The CHAIRMAN said that in a previous report (A/44/40) it was indicated, in paragraph 618, that the number of cases pending would continue to grow and that it might not be possible to act on all communications in a timely fashion. A similar wording could perhaps be used in paragraph 9.

76. Mr. LALLAH said he thought the wording used in the text of paragraph 9 as it stood was the most appropriate, because it made clear that the situation had evolved. It was a fact that the Committee did not have the means to work as expeditiously as it had in the past.

77. Mr. ANDO (Rapporteur) and Mr. HERNDL shared that view.

78. The third sentence of paragraph 9 was retained as it stood.

79. Paragraph 9 was adopted.

80. Paragraphs 10 to 13 (Sections C and D) were adopted without change.

Paragraphs 14 to 51 (Sections E to J)

81. Mr. ANDO (Rapporteur) proposed that paragraph 15 should be amended so as to indicate that no individual opinion had been appended to the Committee's views, but that individual opinions had been appended to decisions on the admissibility of certain communications.

82. He further proposed the deletion of paragraphs 31 and 43 and the second sentence of paragraph 32, which all dealt with communication No. 230/1987; that would mean also deleting the word "Similarly" at the beginning of paragraph 33. In paragraph 47, the words "for a period of one year" should be added at the end of the third sentence.

83. He endorsed a proposal by Mr. Fodor to add to the document a paragraph 52 which would deal with replies received - or not received - by the Secretariat from States parties concerning measures taken in pursuance of the Committee's views on certain communications, and would indicate the specific time-limits set for each of the States parties concerned.

84. The CHAIRMAN said he felt that there was no need to specify the time-limits indicated to States parties. It would be enough to say that, taking into account the time-limits that had been set, the Special Rapporteur hoped that further information would reach the Secretariat before the next session, so that he could submit a more substantial interim report on the matter. In his view, the paragraph proposed by Mr. Fodor should take the form of a new paragraph 48. However, he suggested that it should be left to the Secretariat to decide what was the most appropriate place for such a paragraph.

85. Mr. ANDO (Rapporteur) read out a paragraph embodying Mr. Fodor's proposal to the following effect: "In regard to measures taken by States parties in pursuance of the Committee's views, the Secretariat has very recently received replies from Colombia, Peru and Trinidad and Tobago. The Secretariat is still awaiting replies from the following States parties concerning a number of other communications: Bolivia, Canada, Colombia, Dominican Republic, France, Jamaica, Madagascar, Netherlands, Peru, Suriname, Trinidad and Tobago, Uruguay, Venezuela and Zaire".

86. The CHAIRMAN pointed out that the Committee had already considered what part of the report to devote to the replies of States parties. It had been suggested that, for the time being, such replies should not be reproduced in extenso in an annex. In fact, the Committee had now appointed a Special Rapporteur for Follow-Up of Views, whose task was to deal with substantive replies from States parties and to report on them in summary form. It was thus not necessary to reproduce the replies in full in an annex.

87. If there were no objections, he would take it that the Committee wished to adopt that decision.

88. It was so decided.

89. Paragraphs 14 to 51 were adopted, subject to the proposed amendments.

Document CCPR/C/42/CRP.1/Add.18 (Chapter IV - General comments of the Committee)

90. The CHAIRMAN, observing that there was not the necessary quorum to adopt document CCPR/C/42/CRP.1/Add.18, proposed that the Committee should defer its decision to the next session. He drew the Rapporteur's attention to the fact that paragraph 1 of that document would have to be amended accordingly.

91. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

92. The CHAIRMAN invited the Committee to designate a Special Rapporteur for Follow-Up of Views for the coming year. As he understood it, the Committee's Rapporteur had proposed that Mr. Fodor's mandate should be renewed. In the absence of any objection, he would take it that the Committee decided to renew Mr. Fodor's mandate as Special Rapporteur for Follow-Up of Views. He would leave it to the secretariat of the Committee to draft a sentence to that effect which could be inserted immediately after the third sentence in paragraph 47 of document CCPR/C/42/CRP.1/Add.19.

93. It was so decided.

94. The CHAIRMAN invited the Committee to consider the composition of the working groups. As was customary, the Working Group on Communications would in principle consist of five members, who would be Miss Chanet, Mr. El Shafei, Mr. Lallah, Mr. Ndiaye and Mr. Prado Vallejo, and the Working Group under article 40 of the Covenant would consist of four members, who would be Mr. Aguilar Urbina, Mr. Myullerson, Mr. Sadi and Mr. Wennergren. Some members of the Committee had already indicated that they might not be able to take part in meetings of the working groups. Accordingly, he would ask Committee members to inform the secretariat as soon as possible which dates would be convenient for them, so that it could make the necessary arrangements. Every member of the Committee should be prepared to take part if required, in the two working groups for the reason just indicated.

95. It was so decided.

96. Mr. WENNERGREN suggested that since the Committee did not yet know how the future Working Group under article 40 was to be constituted, it could request the secretariat to divide the task of drafting the lists of issues to be taken up in connection with the consideration of reports of States parties between the various members of the Group.

97. It was so decided.

98. The CHAIRMAN, summing up the Committee's activities in regard to communications, said that the Working Group on Communications had adopted five decisions on admissibility, two decisions under rule 91 and one decision to

deal jointly with two cases. The Committee, for its part, had not adopted any view in plenary session; it had adopted a decision that one communication was to be declared inadmissible, it had discontinued examination of two cases, and had adopted four interlocutory decisions concerning a number of other cases. The Special Rapporteur had examined 28 new cases.

CLOSURE OF THE SESSION

99. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 12.50 p.m.